

REMARKS

Claims 1-41 are pending. The Office Action objects to the specification. Claims 20, 24-26, 31-32, and 34-39 are objected to for informalities. Claims 1-41 are rejected under 35 U.S.C. § 112, second paragraph. Claim 41 is rejected under 35 U.S.C. § 101 for being directed to non-statutory subject matter. Claims 1-5, 18, 21-31, 35, and 40-41 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Pat. No. 7,107,497 to McGuire et al. ("McGuire"). Claims 6-11, 16-17, 19-20, 32-34, and 36-37 are rejected under 35 U.S.C. § 103(a) as being unpatentable over McGuire. Claims 12-13 and 15 are rejected under 35 U.S.C. § 103(a) as being unpatentable over McGuire in view of U.S. Pat. No. 7,304,982 to Hondo et al. ("Hondo"). Claims 38-39 are rejected under 35 U.S.C. § 103(a) as being unpatentable over McGuire in view of U.S. Pat. No. 5,881,315 to Cohen ("Cohen"). Claim 14 is indicated as being allowable if rewritten in independent form.

Applicants appreciate the Examiner recognizing the patentability of the subject matter of Claim 14. In the instant response, Applicants have amended the specification as set forth in the above Amendments to the Specification section. Applicants have further made clarifying amendments to several claims as set forth in the above listing of amended claims. These amendments are fully supported by the originally filed specification. Claims 40-41 have been canceled. New Claims 42-50 have been added and are fully supported by the originally filed specification. In light of the amendments and subsequent remarks, Applicants respectfully submit that the claims are in condition for allowance.

The Examiner's Improper Interpretation of "Wherein"

On page 2 of the Office Action, the Examiner posits that the recitations of "wherein" clauses renders "the limitations optional" and cites MPEP §§ 2106(II)(C) and 2111.04. Applicants respectfully submit that the Examiner's construction of features recited in "wherein" clauses is improper. In this regard, it will be noted that both cited sections of the MPEP merely state that a wherein clause "may raise a question as to the

limiting effect of the language in a claim.” MPEP § 211.04 further provides:

The determination of whether each of these clauses is a limitation in a claim depends on the specific facts of the case. In *Hoffer v. Microsoft Corp.*, 405 F.3d 1326, 1329, 74 USPQ2d 1481, 1483 (Fed. Cir. 2005), the court held that when a "'whereby' clause states a condition that is material to patentability, it cannot be ignored in order to change the substance of the invention." *Id.* However, the court noted (quoting *Minton v. Nat'l Ass'n of Securities Dealers, Inc.*, 336 F.3d 1373, 1381, 67 USPQ2d 1614, 1620 (Fed. Cir. 2003)) that a "'whereby clause in a method claim is not given weight when it simply expresses the intended result of a process step positively recited.'

As such, the mere presence of “wherein” is not dispositive to a determination that the recited features are optional. Indeed, the wherein clauses cited in the instant claims recite clear features of respectively claimed embodiments and do not include any language indicating that the features recited in the wherein clauses are optional in the respectively claimed embodiments. Applicants therefore respectfully submit that any construction by the Examiner of features claimed in the wherein clauses recited in the instant claims as optional and/or refusal to examine such features is improper.

The Objection to the Specification is Overcome

Applicants have amended the specification to insert the heading “BRIEF SUMMARY” at page 6, line 1 in accordance with the Examiner’s suggestion. Applicants have additionally amended “punish” in line 1 of the abstract to read “publish.” Applicants appreciate the Examiner for pointing out this spelling error.

With respect to the Examiner’s objection to the Abstract not appearing on a separate sheet of paper, Applicants note that the instant application is a national phase entry of a PCT application and the Examiner is referring to the PCT publication, in which the Abstract was published on the first page by convention. Applicants are not required address the positioning of the Abstract for the national phase entry. As such, Applicants respectfully submit the objections to the specification are overcome.

The Claim Objections are Overcome

Applicants appreciate the Examiner pointing out the ambiguities in Claims 20 and 24-26. Applicants have amended each of Claims 20-26 as suggested by the Examiner.

With respect to Claims 31-32 and 34-39, Applicants note the Examiner has requested that recitations of “a/the message queue” and “the said message queue” to read “the message queue facility.” Applicants have instead amended Claim 30 to clarify that the property comprises a message queue facility comprising a message and a message queue. *See*, the second and third full paragraphs on page 17 of the specification. Accordingly, subsequent references to the message queue in Claims 31-32 and 34-39 have been amended, as needed, to uniformly refer to “the message queue.”

Applicants have additionally amended each occurrence of “the said message” in Claims 31-32 and 34-39 to recite “the message.” Applicants note that the Examiner has also requested amending occurrences of “a message” to “the message.” Recitations of “a message” appear in Claims 31, 38, and 39. Applicants respectfully submit that no amendments are needed to these recitations. In this regard, Claim 31 refers to “a message in the message queue,” which is not necessarily “the message” recited in Claim 30. Further, Claims 38 and 39 refer to “a message on the message queue,” which is likewise not necessarily “the message” recited in Claim 30.

In view of the foregoing remarks, Applicants respectfully submit that the claim objections are overcome.

The Rejection of Claims 1-41 under § 112, Second Paragraph is Overcome

Claims 1-41 are rejected as allegedly being indefinite. It appears that the Examiner is rejecting Claims 1-41 for prolix, as the Office Action posits “Claims 1-41 contains such long recitation of unimportant details such as fields of a property/message, the bit and byte sizes of particular data structures and that the scope of the claimed invention is rendered indefinite thereby.” Applicants note that MPEP § 2173.05(m) provides:

Examiners should reject claims as prolix only when they contain such long recitations or unimportant details that the scope of the claimed invention is rendered indefinite thereby. Claims are rejected as prolix when they contain long recitations that the metes and bounds of the claimed subject matter cannot be determined.

Applicants respectfully submit that none of the claim recitations are unnecessarily or abnormally long. Further, Applicants respectfully submit that none of the recitations in the respectively claimed embodiments are *unimportant details* as alleged by the Examiner. Finally, none of the recitations render the metes and bounds of the claimed subject matter undeterminable. The Examiner has not alleged with any particularity that any particular recitation has a mete or bound that is undeterminable. Indeed, while the Applicants make no admission regarding the propriety of the Examiner's claim construction, the Examiner appears to have accorded each claim recitation a mete and bound, as the Examiner fully examined the claims in view of the Examiner's construction of the claim recitations.

In view of the foregoing remarks, Applicants respectfully submit that the rejection of Claims 1-41 for prolix is improper and is overcome.

The Rejection of Claim 41 under § 101 is Overcome

Applicants have canceled Claim 41 in the instant response. As such, Applicants respectfully submit that the rejection under § 101 is overcome.

The Rejection of Independent Claim 1 under §102 is Overcome

Amended independent Claim 1 is directed to a method comprising causing a kernel portion of an operating system to retrieve a property published within a first process. The method further comprises causing the kernel portion to notify the retrieved property to one or more further processes requesting to subscribe to the property.

The Office Action alleges that claim 1 is anticipated by McGuire. However, Applicants respectfully disagree. In this regard, McGuire fails to teach or suggest at least causing a kernel portion of an operating system to retrieve a property published within a first process, as recited in Claim 1.

The second paragraph on page 2 of the originally filed specification (paragraph 5 of the published application) provides:

The kernel of the operating system runs what are generally known as user-mode programs in such a way that these programs can only access system

resources through application program interfaces (APIs) with the kernel. User mode programs usually have a user interface and thus these programs are commonly known as applications. Each application running on the computing device runs in a process with its own virtual address space in the device memory, and the boundary between one application and another is known as a process boundary. Process boundaries ensure, therefore, that one application cannot accidentally overwrite the data of another because their memory address spaces are maintained entirely separate. Hence, a process may be regarded as the fundamental unit of protection within the operating system.

Accordingly, it will be appreciated that a first process, as recited in Claim 1, is a process in which an application runs on a computing system. Thus, a process is distinct from the kernel and the embodiment claimed in Claim 1 enables a second process to receive a property published by a first process through a kernel implementation. Accordingly, even though the first and second processes may be separated by a boundary and cannot directly communicate, the embodiment claimed in Claim 1 provides a kernel that retrieves a property published by the first process and notifies one or more subscribe second processes.

It will thus be appreciated that in the embodiment recited in Claim 1, it is not the kernel, itself, which publishes the property, but rather a process that is distinct from the kernel. The kernel then retrieves the published property from the process. In stark contrast, McGuire merely discloses that the kernel “publishes the events as they occur in the kernel.” *See*, Col. 6, lines 47-48 of McGuire. Thus, McGuire does not teach or suggest that the kernel retrieves a property published within a process, as recited by Claim 1.

Applicants therefore respectfully submit that Claim 1 is patentably distinct from McGuire such that the rejection is overcome. Moreover, none of the other cited references, taken alone or in combination with McGuire, cure the deficiencies of McGuire. As such, Applicants further respectfully submit that Claim 1 is in condition for allowance.

The Rejection of the Dependent Claims is Overcome

Because each of the dependent claims includes each of the recitations of a

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respective independent base claim, Applicants further submit that the dependent claims are patentably distinguishable from the cited references, taken alone or in combination, for at least those reasons discussed above. Accordingly, Applicants respectfully submit that the rejections of the dependent claims are overcome and the dependent claims are in condition for allowance.

New Claims 42-50 are in Condition for Allowance

Each of Claims 42-50 is fully supported by the originally filed specification and does not constitute new matter. Independent Claims 42 and 50 are directed to an apparatus and non-transitory memory, respectively. While each of Claims 42 and 50 has its own respective scope, Claims 42-50 recite features substantially similar to those of Claim 1. As such, Applicants respectfully submit that Claims 42 and 50 are patentably distinct from the cited references, whether taken alone or in combination, and are in condition for allowance for at least those same reasons as discussed with respect to Claim 1 above. Claims 43-49 each depend at least in part from Claim 42 and thus are patentably distinct from the cited references, taken alone or in combination, and are in condition for allowance for at least those same reasons as discussed with respect to Claim 42.

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CONCLUSION

In view of the amended claims and remarks presented above, it is respectfully submitted that all of the present claims of the present application are in condition for immediate allowance. It is therefore respectfully requested that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicants' undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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